



BILLING CODE 7545-01

NATIONAL LABOR RELATIONS BOARD

Order Contingently Delegating Authority to the General Counsel

AGENCY: National Labor Relations Board

Authority: Sections 3, 4, 6, and 10 of the National Labor Relations Act, 29 USC Sec. 3, 4, 6, and 10.

ACTION: Notice

SUMMARY: The National Labor Relations Board has issued an Order contingently delegating to the General Counsel full authority over court litigation matters that otherwise would require Board authorization and full authority to certify the results of any secret ballot election conducted under the National Emergency provisions of the Labor Management Relations Act, sections 206–210, 29 U.S.C. 176–180. These delegations shall become effective during any time at which the Board has fewer than three Members and shall cease to be effective whenever the Board has at least three Members.

DATE: This Order is effective November 3, 2011.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Washington, DC 20570, (202) 273-1067 (this is not a toll-free number), 1-866-315-6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The National Labor Relations Board anticipates that in the near future it may, for a temporary period, have fewer than three Members of its full complement of five Members.¹ The Board also recognizes that it has a continuing responsibility to fulfill its statutory obligations in the most effective and efficient manner possible. To assure

¹ The Board now has three Members, one of whom, Member Becker, is in recess appointment which will expire at the sine die adjournment of the current session of Congress.

that the Agency will be able to meet its obligations to the public to the greatest extent possible, the Board has decided to temporarily delegate to the General Counsel full authority on all court litigation matters that would otherwise require Board authorization, and full authority to certify the results of any secret ballot election conducted under the National Emergency provisions of the Labor Management Relations Act, sections 206–210, 29 U.S.C. 176–180. This delegation shall be effective during any time at which the Board has fewer than three Members and is made under the authority granted to the Board under sections 3, 4, 6, and 10 of the National Labor Relations Act.

Accordingly, the Board delegates to the General Counsel full and final authority and responsibility on behalf of the Board to initiate and prosecute injunction proceedings under section 10(j) or section 10(e) and (f) of the Act, contempt proceedings pertaining to the enforcement of or compliance with any order of the Board, and any other court litigation that would otherwise require Board authorization; and to institute and conduct appeals to the Supreme Court by writ of error or on petition for certiorari. The Board also delegates to the General Counsel full and final authority and responsibility on behalf of the Board to certify to the Attorney General the results of any secret ballot elections held among employees on the question of whether they wish to accept the final offer of settlement made by their employer pursuant to section 209(b) of the Labor Management Relations Act, 29 U.S.C. 179(b). These delegations shall become and remain effective during any time at which the Board has fewer than three Members, unless and until revoked by the Board.

This delegation relates to the internal management of the National Labor Relations Board and is therefore, pursuant to 5 U.S.C. 553, exempt from the notice and comment requirements of the Administrative Procedure Act. Further, public notice and comment is impractical because of the

immediate need for Board action. The public interest requires that this Order take effect immediately.

All existing delegations of authority to the General Counsel and to staff in effect prior to the date of this order remain in full force and effect.² For the reasons stated above, the Board finds good cause to make this order effective immediately in accordance with 5 U.S.C. 553(d).

Signed in Washington, DC November 3, 2011

Mark Gaston Pearce
Chairman

[FR Doc. 2011-29014 Filed 11/08/2011 at 8:45 am; Publication Date: 11/09/2011]

² On December 14, 2001, and on November 19, 2002, the Board previously delegated to the General Counsel, on the same basis, full authority on all court litigation matters that would otherwise require Board authorization, and full authority to certify the results of any secret ballot election conducted under the National Emergency provisions of the Labor Management Relations Act, sections 206–210, 29 U.S.C. 176–180, effective during any time when the Board has fewer than three Members. *See* 66 FR 65998 (December 21, 2001), and 67 FR 65998-65999 (November 25, 2002). This Order consolidates, restates and affirms those prior delegations.